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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application

PATENT APPLICATION # 5AInventor(s): James F. Zucherman
Ken Y. Hsu
T. Wade Fallin
Henry A. Klyce

Customer No. 23910

SC/Serial No.: Unknown

Filed: Herewith

Title: SPINE DISTRACTION IMPLANT AND METHOD

CERTIFICATE OF MAILING BY "EXPRESS MAIL" UNDER 37 C.F.R. §1.10

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Matthew A. Mahling (Signature)
Matthew A. Mahling
Signature Date: October 5, 2000

CONTINUATION APPLICATION TRANSMITTAL LETTER
UNDER 37 C.F.R. §1.53(b)(1)Assistant Commissioner for Patents
Washington, DC 20231

Dear Sir:

Transmitted herewith for filing as a continuation application under the continuing application procedure of 37 C.F.R. §1.53(b)(1) is a patent application identified as follows:

Title: SPINE DISTRACTION IMPLANT AND METHOD

Inventor(s): James F. Zucherman, Ken Y. Hsu, T. Wade Fallin and Henry A. Klyce

No. of Pages in Specification: 54, No. of Claims: 24.No. of Sheets of Drawings: 37; Formal: .

The PTO did not receive the following listed item(s) Specification

Identification of Prior Complete Application

SC/Serial No.: 09/360,955

Art Unit: 3731

Filed: July 27, 1999

Examiner: Reip, D.

Title: SPINE DISTRACTION IMPLANT AND METHOD

Inventor(s): James F. Zucherman, Ken Y. Hsu, T. Wade Fallin, Henry A. Klyce

Delete the Following Inventor(s) for This Application: (none)

Declaration

A copy of the Declaration (signed by all inventors) from the Prior Complete Application is submitted herewith.

Amendments

Please CANCEL in this application original claims 2-89 of the prior complete application before calculating the filing fee. (At least one original independent claim must be retained for filing purposes.)

Please AMEND the specification by inserting before the first line of the application: "This application is a continuation of Serial No. 09/360,955, filed July 27, 1999, which is a divisional of Serial No. 09/018,479, filed February 5, 1998, now U.S. Patent No. 6,074,390, which is a divisional of Serial No. 08/778,093, filed 1/2/97 now U.S. Patent No. 5,836,948 issued November 17, 1998."

A preliminary amendment is enclosed. Please enter the preliminary amendment before calculating the application filing fee. (Claims added must be consecutively numbered beginning with next number after highest number in prior complete application.)

Petition for Extension of Time to Respond

No extension of time is required for the prior complete application.

Pursuant to 37 C.F.R. §1.136(a), enclosed is a petition for an extension of time for the prior complete application, up to and including today, for responding to the Office action together with the fee set by 37 C.F.R. §1.17.

Power of Attorney

A power of attorney appears in the prior complete application.

A new power of attorney is submitted herewith.

Assignment

The prior application is assigned of record to:
St. Francis Medical Technologies, Inc.

An assignment of the invention to: _____ is submitted herewith,
together with an **ASSIGNMENT RECORDATION FORM COVER SHEET**
and recordal fee of \$40.00.

Claim of Priority

Priority of foreign application Serial No. _____, filed on _____,
in _____ is claimed under 35 U.S.C. §1.119.

The certified copy was filed in prior U.S. application Serial No. _____,
filed _____.

Small Entity Statement

Statement(s) claiming small entity status is (are) submitted herewith.

Statement(s) claiming small entity status was (were) filed in the parent
application Serial No. 08/778,093, (now U.S. Patent No. 5,836,948
issued on November 17, 1998) and its benefit under 37 C.F.R. §1.28(a)
is hereby claimed.

Also Enclosed Are:

- Copies of Information Disclosure Statements under 37 C.F.R. §1.56 filed in the
prior case are enclosed herewith.
- Revised drawing sheets 12 and 17 for Figs. 21, 22, and 37.

Filing Fee

The continuation/divisional patent application filing fee is calculated as shown below:

No. Filed	No. Extra	Rate Small Entity/ Other Than Small Entity	
Basic Fee		\$355.00 \$710.00	= \$355.00
Total Claims <u>24</u> - 20 = <u>4</u>	X	\$ 9.00 \$ 18.00	= \$ 36.00
Independent Claims <u>15</u> - 3 = <u>12</u>	X	\$ 40.00 \$ 80.00	= \$480.00
First Presentation of Multiple Dependent Claim(s) <u> </u>		\$135.00 \$270.00	= \$871.00

Total PATENT APPLICATION FILING FEE: \$871.00

- * If the difference is less than zero, enter "0".
- ** Count claims after any amendment.

Method of Payment of Fees

The total fee associated with this communication is calculated as follows:

Patent application filing fee \$871.00
Net fee for extension of time \$
(See attached petition)
Assignment recordal fee \$
(See attached cover sheet) = = = = = = = =
TOTAL FEE DUE: \$871.00

- A check in the amount of the TOTAL FEE DUE is enclosed.
- The Commissioner is hereby authorized to charge underpayment of any additional fees associated with this communication or credit any overpayment to Deposit Account No. 06-1325. A **duplicate** copy of this CONTINUATION OR DIVISIONAL APPLICATION TRANSMITTAL LETTER UNDER 37 C.F.R. §1.53(b)(1) form is enclosed.

Correspondence Address

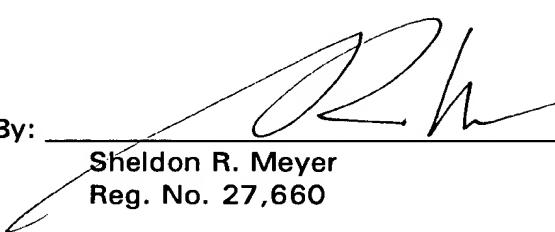
All correspondence should be addressed as follows:

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Direct all telephone calls to the undersigned attorney at (415) 362-3800.

Respectfully submitted,

Date: 10/5/00

By: 

Sheldon R. Meyer
Reg. No. 27,660

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